



ROBINSON MCFADDEN
ATTORNEYS AND COUNSELORS AT LAW

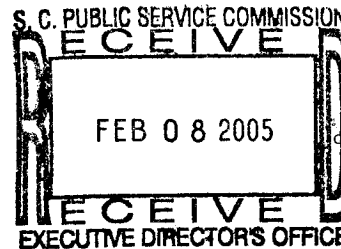


ROBINSON, MCFADDEN & MOORE, P.C.

COLUMBIA | GREENVILLE

February 7, 2005

VIA E-MAIL AND US MAIL



Frank R. Ellerbe, III

1901 MAIN STREET, SUITE 1200

POST OFFICE BOX 944

COLUMBIA, SOUTH CAROLINA 29202

PH
(803) 779-8900

FAX
(803) 262-0724

Mr. Charles Terreni
Chief Clerk of the Commission
Public Service Commission of South Carolina
PO Drawer 11649
Columbia, SC 29211

**Re: Application of SCE&G for Adjustments in Rate Schedules and Tariffs
Case No. 2004-178-E**

Dear Mr. Terreni:

I am writing this letter to briefly respond to a memorandum SCE&G served on me this afternoon. The SCE&G memorandum was filed to oppose a petition for reconsideration we filed on behalf of Columbia Energy LLC. It is my understanding that although it was filed and served today the SCE&G memorandum is reflected on the Commission's agenda published on Friday. I also understand that the twenty day deadline of § 58-27-2310 requires that the petition for reconsideration be addressed at this tomorrow's Commission meeting.

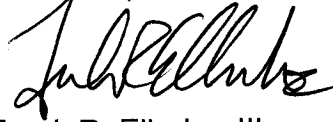
For these reasons I am limited in my ability to fully respond to the issues raised in the SCE&G memorandum which is ten pages long and cites numerous authorities. I will simply respond to section three of the memorandum which argues that: "Establishing a generic docket accords with past practice." We agree that the Commission has conducted many generic proceedings in the past. The point of the petition for reconsideration we filed on behalf of Columbia Energy is that we think there is a potential problem with this "past practice" if it is followed in the wrong circumstances. Based on the authorities cited in the petition for reconsideration, it is clear that in order to establish rules which would apply to all South Carolina electric utilities and which would impose requirements for the RFP process described in Order No. 2005-02, this Commission would have to conduct a rule-making proceeding.

The authorities we cited in our petition are very clear: in order for this Commission to establish rules of general applicability – "binding norms" – it must follow the procedures set out by the Administrative Procedures Act. SCE&G does not take issue with this proposition. Instead, SCE&G apparently argues that the Commission should first conduct a generic proceeding and then, if rules are needed, open a rule-making proceeding. This procedure would be inefficient, time-consuming and wasteful.

Like a generic docket, a rule-making proceeding under the Administrative Procedures Act allows for the general investigation described in the Commission's order and endorsed in the SCE&G memorandum. However, a rule-making proceeding – unlike a generic proceeding – would also allow the Commission to promulgate rules which would be binding and enforceable on all South Carolina electric utilities. Under these circumstances, there is no reason why the Commission should first conduct a non-binding investigatory proceeding. We respectfully submit that the intent of Order No. 2005-02 would best be served by the establishment of a rule-making proceeding as contemplated by the Administrative Procedures Act.

Sincerely,

ROBINSON, MCFADDEN & MOORE, P.C.

A handwritten signature in black ink, appearing to read 'Frank R. Ellerbe, III', written in a cursive style.

Frank R. Ellerbe, III

FRE/mfc

cc: Dr. James Spearman
Jocelyn Boyd, Esquire
All parties of record